

SB1621



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1621

Introduced 2/23/2005, by Sen. Edward D. Maloney

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12b

Amends the School Code. Changes the residency requirements for pupils of a school district. Effective immediately.

LRB094 11151 NHT 41787 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 10-20.12b as follows:

6 (105 ILCS 5/10-20.12b)

7 Sec. 10-20.12b. Resident district ~~Residency~~; payment of
8 tuition; hearing; criminal penalty.

9 (a) The resident district is the school district in which
10 the parent or guardian, or both parent and guardian, of the
11 student resides when:

12 (1) the parent has legal guardianship of the student
13 and resides within Illinois;

14 (2) an individual guardian has been appointed by the
15 courts and resides within Illinois;

16 (3) an Illinois public agency has legal guardianship
17 and the student resides either in the home of the parent or
18 within the same district as the parent; or

19 (4) an Illinois court orders a residential placement
20 but the parents retain legal guardianship.

21 In cases of divorced or separated parents, when only one
22 parent has legal guardianship or custody, the district in which
23 the parent having legal guardianship or custody resides is the
24 resident district. When both parents retain legal guardianship
25 or custody, the resident district is the district in which
26 either parent who provides the student's primary regular fixed
27 night-time abode resides, provided that the election of
28 resident district may be made only one time per school year.

29 (a-5) The resident district is the school district in which
30 the student resides when:

31 (1) the parent has legal guardianship but the location
32 of the parent is unknown;

1 (2) an individual guardian has been appointed but the
2 location of the guardian is unknown;

3 (3) the student is 18 years of age or older and no
4 legal guardian has been appointed;

5 (4) the student is legally an emancipated minor; or

6 (5) an Illinois public agency has legal guardianship
7 and has placed the student residentially outside of the
8 school district in which the parent lives.

9 The resident district of a homeless student is the school
10 district in which the student enrolls. Homeless students
11 include individuals as defined in the federal McKinney-Vento
12 Homeless Assistance Act.

13 ~~(a) For purposes of this Section:~~

14 ~~(1) The residence of a person who has legal custody of~~
15 ~~a pupil is deemed to be the residence of the pupil.~~

16 ~~(2) "Legal custody" means one of the following:~~

17 ~~(i) Custody exercised by a natural or adoptive~~
18 ~~parent with whom the pupil resides.~~

19 ~~(ii) Custody granted by order of a court of~~
20 ~~competent jurisdiction to a person with whom the pupil~~
21 ~~resides for reasons other than to have access to the~~
22 ~~educational programs of the district.~~

23 ~~(iii) Custody exercised under a statutory~~
24 ~~short-term guardianship, provided that within 60 days~~
25 ~~of the pupil's enrollment a court order is entered that~~
26 ~~establishes a permanent guardianship and grants~~
27 ~~custody to a person with whom the pupil resides for~~
28 ~~reasons other than to have access to the educational~~
29 ~~programs of the district.~~

30 ~~(iv) Custody exercised by an adult caretaker~~
31 ~~relative who is receiving aid under the Illinois Public~~
32 ~~Aid Code for the pupil who resides with that adult~~
33 ~~caretaker relative for purposes other than to have~~
34 ~~access to the educational programs of the district.~~

35 ~~(v) Custody exercised by an adult who demonstrates~~
36 ~~that, in fact, he or she has assumed and exercises~~

1 ~~legal responsibility for the pupil and provides the~~
2 ~~pupil with a regular fixed night time abode for~~
3 ~~purposes other than to have access to the educational~~
4 ~~programs of the district.~~

5 (b) Except as otherwise provided under Section 10-22.5a,
6 only resident pupils of a school district may attend the
7 schools of the district without payment of the tuition required
8 to be charged under Section 10-20.12a. However, children for
9 whom the Guardianship Administrator of the Department of
10 Children and Family Services has been appointed temporary
11 custodian or guardian of the person of a child shall not be
12 charged tuition as a nonresident pupil if the child was placed
13 by the Department of Children and Family Services with a foster
14 parent or placed in another type of child care facility and the
15 foster parent or child care facility is located in a school
16 district other than the child's former school district and it
17 is determined by the Department of Children and Family Services
18 to be in the child's best interest to maintain attendance at
19 his or her former school district.

20 (c) The provisions of this subsection do not apply in
21 school districts having a population of 500,000 or more. If a
22 school board in a school district with a population of less
23 than 500,000 determines that a pupil who is attending school in
24 the district on a tuition free basis is a nonresident of the
25 district for whom tuition is required to be charged under
26 Section 10-20.12a, the board shall notify the person who
27 enrolled the pupil of the amount of the tuition charged under
28 Section 10-20.12a that is due to the district for the
29 nonresident pupil's attendance in the district's schools. The
30 notice shall be given by certified mail, return receipt
31 requested. Within 10 days after receipt of the notice, the
32 person who enrolled the pupil may request a hearing to review
33 the determination of the school board. The request shall be
34 sent by certified mail, return receipt requested, to the
35 district superintendent. Within 10 days after receipt of the
36 request, the board shall notify, by certified mail, return

1 receipt requested, the person requesting the hearing of the
2 time and place of the hearing, which shall be held not less
3 than 10 nor more than 20 days after the notice of hearing is
4 given. The board or a hearing officer designated by the board
5 shall conduct the hearing. The board and the person who
6 enrolled the pupil may be represented at the hearing by
7 representatives of their choice. At the hearing, the person who
8 enrolled the pupil shall have the burden of going forward with
9 the evidence concerning the pupil's residency. If the hearing
10 is conducted by a hearing officer, the hearing officer, within
11 5 days after the conclusion of the hearing, shall send a
12 written report of his or her findings by certified mail, return
13 receipt requested, to the school board and to the person who
14 enrolled the pupil. The person who enrolled the pupil may,
15 within 5 days after receiving the findings, file written
16 objections to the findings with the school board by sending the
17 objections by certified mail, return receipt requested,
18 addressed to the district superintendent. Whether the hearing
19 is conducted by the school board or a hearing officer, the
20 school board shall, within 15 days after the conclusion of the
21 hearing, decide whether or not the pupil is a resident of the
22 district and the amount of any tuition required to be charged
23 under Section 10-20.12a as a result of the pupil's attendance
24 in the schools of the district. The school board shall send a
25 copy of its decision to the person who enrolled the pupil, and
26 the decision of the school board shall be final.

27 (c-5) The provisions of this subsection apply only in
28 school districts having a population of 500,000 or more. If the
29 board of education of a school district with a population of
30 500,000 or more determines that a pupil who is attending school
31 in the district on a tuition free basis is a nonresident of the
32 district for whom tuition is required to be charged under
33 Section 10-20.12a, the board shall notify the person who
34 enrolled the pupil of the amount of the tuition charged under
35 Section 10-20.12a that is due to the district for the
36 nonresident pupil's attendance in the district's schools. The

1 notice shall be given by certified mail, return receipt
2 requested. Within 10 days after receipt of the notice, the
3 person who enrolled the pupil may request a hearing to review
4 the determination of the school board. The request shall be
5 sent by certified mail, return receipt requested, to the
6 district superintendent. Within 30 days after receipt of the
7 request, the board shall notify, by certified mail, return
8 receipt requested, the person requesting the hearing of the
9 time and place of the hearing, which shall be held not less
10 than 10 nor more than 30 days after the notice of hearing is
11 given. The board or a hearing officer designated by the board
12 shall conduct the hearing. The board and the person who
13 enrolled the pupil may each be represented at the hearing by a
14 representative of their choice. At the hearing, the person who
15 enrolled the pupil shall have the burden of going forward with
16 the evidence concerning the pupil's residency. If the hearing
17 is conducted by a hearing officer, the hearing officer, within
18 20 days after the conclusion of the hearing, shall serve a
19 written report of his or her findings by personal service or by
20 certified mail, return receipt requested, to the school board
21 and to the person who enrolled the pupil. The person who
22 enrolled the pupil may, within 10 days after receiving the
23 findings, file written objections to the findings with the
24 board of education by sending the objections by certified mail,
25 return receipt requested, addressed to the general
26 superintendent of schools. If the hearing is conducted by the
27 board of education, the board shall, within 45 days after the
28 conclusion of the hearing, decide whether or not the pupil is a
29 resident of the district and the amount of any tuition required
30 to be charged under Section 10-20.12a as a result of the
31 pupil's attendance in the schools of the district. If the
32 hearing is conducted by a hearing officer, the board of
33 education shall, within 45 days after the receipt of the
34 hearing officer's findings, decide whether or not the pupil is
35 a resident of the district and the amount of any tuition
36 required to be charged under Section 10-20.12a as a result of

1 the pupil's attendance in the schools of the district. The
2 board of education shall send, by certified mail, return
3 receipt requested, a copy of its decision to the person who
4 enrolled the pupil, and the decision of the board shall be
5 final.

6 (d) If a hearing is requested under subsection (c) or (c-5)
7 to review the determination of the school board or board of
8 education that a nonresident pupil is attending the schools of
9 the district without payment of the tuition required to be
10 charged under Section 10-20.12a, the pupil may, at the request
11 of a person who enrolled the pupil, continue attendance at the
12 schools of the district pending a final decision of the board
13 following the hearing. However, attendance of that pupil in the
14 schools of the district as authorized by this subsection (d)
15 shall not relieve any person who enrolled the pupil of the
16 obligation to pay the tuition charged for that attendance under
17 Section 10-20.12a if the final decision of the board is that
18 the pupil is a nonresident of the district. If a pupil is
19 determined to be a nonresident of the district for whom tuition
20 is required to be charged pursuant to this Section, the board
21 shall refuse to permit the pupil to continue attending the
22 schools of the district unless the required tuition is paid for
23 the pupil.

24 (e) Except for a pupil referred to in subsection (b) of
25 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or
26 a pupil referred to in subsection (b) of this Section, a person
27 who knowingly enrolls or attempts to enroll in the schools of a
28 school district on a tuition free basis a pupil known by that
29 person to be a nonresident of the district shall be guilty of a
30 Class C misdemeanor.

31 (f) A person who knowingly or wilfully presents to any
32 school district any false information regarding the residency
33 of a pupil for the purpose of enabling that pupil to attend any
34 school in that district without the payment of a nonresident
35 tuition charge shall be guilty of a Class C misdemeanor.

36 (g) The provisions of this Section are subject to the

1 provisions of the Education for Homeless Children Act. Nothing
2 in this Section shall be construed to apply to or require the
3 payment of tuition by a parent or guardian of a "homeless
4 child" (as that term is defined in Section 1-5 of the Education
5 for Homeless Children Act) in connection with or as a result of
6 the homeless child's continued education or enrollment in a
7 school that is chosen in accordance with any of the options
8 provided in Section 1-10 of that Act.

9 (Source: P.A. 89-480, eff. 1-1-97; 90-566, eff. 1-2-98.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.